KF Modified and the Classification of Canadian Common Law[*]
By F. Tim Knight[**]

Abstract: *This article was inspired by a previous article written by Vincent DeCaen in an earlier issue of CLLR. It explores classification, the different approaches taken by KF Modified and LC Class KE, and the role KF Modified has had in organizing collections in Canadian law libraries. It argues that there is no right or wrong way to classify legal resources and suggests that KF Modified can benefit cataloguing workflow and is well suited to both the Canadian and common law library environments.*

The classification of legal materials has not been without controversy. During the first half of the twentieth century, law library journals and conference records were often peppered with heated arguments debating whether or not a formal classification scheme was needed in law libraries. Law libraries organized their materials around the information habits of their library users, which meant many were happy grouping their materials in broad subject categories and then further arranging them alphabetically by author. With the development and application of the Library of Congress (LC) Class K schedules for law in the second half of the twentieth century, the issues surrounding classification have been largely settled, at least in the U.S. In the Canadian law library community, however, there remains a quiet rivalry between KF Modified[1] (which organizes law resources by subject then jurisdiction) and Class KE (the Canadian part of the larger LC Class K, organizing law resources by jurisdiction then subject). This familiar ground was revisited in a recent opinion piece by Vincent DeCaen exploring the relative merits of the two classification systems.[2]   Although DeCaen is neither a cataloguer nor a law librarian, it was useful to consider his assessment of the current state of legal classification in Canada and I am grateful for this opportunity to make some observations of my own.

We know classification serves an important function. Classification brings like things together and provides some intellectual clarity to subject areas where it is applied. But classification systems, by their very nature, are inherently flawed. Creating a classification system involves choosing the 'top terms' that will serve as the first level in the classification hierarchy. Additional terms will be found lower down in the hierarchy and will be related but considered secondary or subordinate to the top terms. When classifying legal resources, for example, two likely entry points are the legal jurisdiction or the legal topic. Either approach is a valid one. Neither is inherently wrong or right, inferior or superior: they are merely two different ways to solve the same organizational problem. Philip Wesley writing in 1968 summed it up well:

> ... the decision is not which is the best classification, but which is the best system for a given library. Scholars have argued for years about the relative merits of one classification vis-a-vis another; and I think it is safe to say that the arguments concerning law classification will continue for many years, inconclusively.[3]

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1   That is, KF Classification Modified for Use in Canadian Law Libraries.

2   Vincent DeCaen, "There is No 'F' in QWERTY: On the Locking-in of KE Classification Three Decades Later" (2009) 33 Can. L. L. Rev. 445.

3   Phillip Wesley, "Classification – The Choices" (1968) 61 Law Libr. J. 283 at 285.

In an entirely digital environment, where documents are no longer pinned to their physical manifestations on library shelves, it is becoming easier to imagine ourselves working in systems where researchers can choose the top terms in a classification scheme for themselves:

> What you really want is a [classification] tree that arranges itself according to your way of thinking, letting you sort first by expertise and then by experience, and then tomorrow lets you just as easily sort first by language and then by cost, location, and expertise. You want a *faceted classification* system that dynamically constructs a browsable, branching tree that exactly meets your immediate needs. [4]

In such a world, where "everything is miscellaneous", a legal researcher could search by jurisdiction followed by author for one search, by subject and then title for another, or any other ordering that meets the particular information needs for that moment. Although technically possible, we are not quite there yet.

In terms of a static hierarchical arrangement, I will be the first to admit that KF Modified has its flaws. At the time KF Modified was conceived in 1968 there was no formal classification scheme for law. The Library of Congress had just released a draft copy of the KF Class for American federal law and the decision to group the common law jurisdictions first by subject in Canadian law libraries was the natural route to take. As Judy Ginsberg pointed out, this arrangement was considered "preferable, given the way the library is used in Canadian law schools[.]"[5] This preference for law collections oriented around subjects was identified in a survey done by the Canadian Law Subgroup of the Canadian Task Group on Classification. The Subgroup found that "the majority of responding libraries keep all common law texts together, regardless of jurisdiction."[6] So the decision to apply a formal Canadian classification scheme that kept common law resources together reflected and supported the practice already at work in Canadian law libraries at the time. Adopting this approach would also be the least disruptive when it came time to formally organize the collections in Canadian law libraries.

Why were Canadian law libraries so taken with the subject approach to common law? DeCaen provides a useful starting point with a quote stating that the common law is "fundamentally homogeneous in nature."[7] Elizabeth Moys also touches on this notion in her introduction for *A Classification Scheme for Law Books*:

> The common law systems are widely considered to be homogeneous at the core with local differences of detail. That there is indeed a sort of general common law applicable in several countries is proved by the fact that judges can and frequently do consult decisions from other common law jurisdictions to determine the law applicable to cases before them.[8]

The nature of the legal resources influenced the information-seeking behaviour of law library users. Canadian law librarians grouped common law materials together by subject because of the natural similarities in the law. They recognized that bringing things together topically facilitated browsing,

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4   David Weinberger, *Everything is Miscellaneous* (New York: Times Books, 2007) at 78 [emphasis in original].
5   Judy Ginsberg, "A Note on the KF Classification Modified for Use in Canadian Law Libraries" in Joan N. Fraser, ed., *Law Libraries in Canada: Essays to Honour Diana M. Priestly* (Toronto: Carswell, 1988) 159 at 159.
6   Canadian Task Group on Cataloguing Standards, *Cataloguing Standards: the Report of the Canadian Task Group on Cataloguing Standards* (Ottawa: National Library of Canada, 1972) at 28.
7   De Caen, *supra* note 2 at 447, n. 24 attributes this to Humayun Rashid, "KF Canadian Adoption: Expansion of Geographical Divisions" (1994) 19 Can. L. L. 68 at 75, but the quotation is not present in the citation DeCaen provides.
8   Elizabeth Moys, *A Classification Scheme for Law Books*, 2d ed. (London: Butterworths,1982) at 1.

and ultimately finding, by their library users.

KF Modified has often been cited as useful because it does facilitate browsing in this homogeneous area of law. Browsing is widely recognized as an important component in the research process. Consider this passage from noted Library of Congress Reference Librarian Thomas Mann on the importance of browsing texts at the shelf:

> The purpose of a library classification scheme … is thus to arrange printed books in topical or disciplinary categories (i.e., to position volumes treating the same or similar subjects next to one another). The result, ideally, is that the researcher can then browse through *full texts*—not just brief catalog records representing those texts but the texts themselves—in a *systematic* fashion. Such an arrangement provides greater depth of access to the actual contents of the books than does a card or computer catalog consisting merely of brief surrogate records representing the books. … In addition to providing *depth* of access, the physical contiguity of full texts also adds the feature of *serendipity* to searching; that is, it enables one to *recognize* relevant books whose titles, or indeed contents, are phrased so idiosyncratically that they could not be specified in advance by a researcher trying to find them by means of an index file of surrogate catalog records.[9]

Browsing provides a level of access to the intellectual content of library resources that is not available by any other method. And, since legal materials are still predominately available and issued in print, browsing at the shelf can still be a useful avenue for legal researchers.

DeCaen also recognizes the value of browsing and attempts to mitigate the difference in browsing capabilities between the two classification systems. He suggests that browsing problems will be solved by "virtual browsing enabled by the electronic catalogue."[10] It is interesting that he considers virtual browsing in the "electronic catalogue" as a way to take "the sting" out of the argument that "researchers benefit from subject classification by having all materials on a given topic shelved together regardless of jurisdiction."[11] However, this claim is misguided. Technology does not solve the structural challenges researchers face when working in a legal classification system organized around jurisdictions.

For example, in Canada alone there are thirteen separate jurisdictions: federal, ten provinces, and three territories. Even on a virtual shelf, materials found in legal topics classified for each of these jurisdictions will not sit next to each other; instead, they will each sit separately in their individual class numbers for each of these individual jurisdictions. Factor in the many other common law jurisdictions that might have a bearing on the area of law a researcher might consider, and users will be left with much hunting and gathering to collect the necessary materials they might wish to consult. And although, as DeCaen suggests, this might contribute to a somewhat slimmer research population, it does not save the researcher any time and frustrates the research efforts of library users. Subject searching, that is using the controlled vocabulary of a subject heading system, will group resources together topically, but a classification system organized by jurisdiction will scatter legal topics in a collection.

However, I don't think the recent decisions some academic law libraries have made to move

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9   Thomas Mann, *Library Research Models: a Guide to Classification, Cataloging, and Computers* (New York: Oxford, 1993) at 15 [emphasis in original].
10 DeCaen, *supra* 2 at 447.
11 *Ibid.*

away from KF Modified to so-called 'straight' LC classification are fuelled by any perceived differences in browsing preferences. If that were the case, KF Modified or Moys would clearly be the better choices for any common law library. I would suggest that their reasoning has little to do with library users or even the particular qualities of the classification schemes. Rather, there is an administrative perception that using LC Class K will magically lower costs or increase production in cataloguing departments that have been neglected and understaffed for years. It is time to admit that this neglect has damaged the overall quality of cataloguing in the profession to the point where our ability to effectively organize our collections is seriously threatened. There are fewer and fewer professional cataloguers with the experience necessary to accurately analyse and organize the intellectual content of our legal resources; those that are left are swamped with new and emerging resource formats, which leaves little time for the level of analysis necessary to identify and bring out the important relationships that exist between legal resources.

The bibliographic records that are produced are often lacking sufficient legal subject headings and appropriate and accurate classification numbers. Unfortunately, once a record is dropped into the shared bibliographic system it is quickly copied, warts and all, and happily loaded into library catalogues and/or delivered shelf-ready to academic law library shelves. In today's busy academic library, a growing percentage of library resources will never even be seen by the library's cataloguers. There is no longer time to check accuracy. There is barely enough time to find and load the catalogue records. You can have the best collection in the country but if you can't find relevant resources quickly and effectively it is rendered useless. Unfortunately, there is no classification scheme that will fix this problem. Only additional professional resources, or the successful retooling of the information supply chain (with the potential to free up time to focus on intellectual processes) will remedy this situation.

The irony here is that KF Modified can actually save time and money in law library cataloguing departments. It is much easier for cataloguers to consult only one schedule for all common law jurisdictions. The result is that cataloguers can really learn the system well, enabling them to make better and more consistent classification decisions. The cataloguer can focus on analysing the intellectual content, determining the main subject area, and applying a geographical division (GD) where appropriate. A few topical areas have been 'modified' to handle constitutional law, taxation, etc. and there are a handful of additional tables that can be applied to collocate bibliographic formats. That's it. Consulting one classification schedule with one approach to information organization saves cataloguers' time.

It is a little more challenging when applying Class K to common law materials. The cataloguer must master the individual classification schedules available for each common law jurisdiction: KD – United Kingdom and Ireland; KE – Canada; KF – United States; KU – Australia; KUQ – New Zealand. Within each of these larger jurisdictions there are separate schedules for each of the smaller jurisdictions: KD – England and Wales; KDC – Scotland; KDE – Northern Ireland; KDG – Isle of Man and Channel Islands; KDK – Ireland (Eire); KE – Canadian federal and collective provincial and territorial law; KEA-KEY – Individual provinces and territories; KF – U.S. federal and collective state law; KFA-KFV – Individual states; KUA-KUH – Australian states and territories. Class K is not necessarily better or worse than KF Modified, but for common law materials Class K is just not easier to use, either for cataloguers or the library's users.

Some will contend that the potential cost savings of adopting straight LC will be realized through shared cataloguing copy derived from libraries outside of Canada. For example, if the copy

comes from a US law library than it will usually include a Class K number. Depending on the jurisdictions the library is collecting, this may be true; however, KF Modified numbers are just as easily acquired from sources like CIP, provided in most Canadian books, and from cataloguing records derived from cataloguing agencies like Special Libraries Cataloguing, or Library and Archives Canada. They could also come from any of the major libraries that are currently using KF Modified, including the Great Library, Law Society of Upper Canada; Osgoode Hall Law School Library, York University; University of Western Ontario; University of New Brunswick; University of Saskatchewan; University of Windsor and many other court, law firm and corporate libraries.[12]

However, even if a cataloguer is faced with only a Class K number, it is a relatively simple task to convert this number to an equivalent KF Modified classification number. It is a simple matter to find the corresponding subject area and, if appropriate, add a geographic division (GD).[13] For example, a book on family law in Ontario would use KEO213 in Class K; the corresponding topical area in KF Modified (something KF Modified cataloguers will know intuitively) is KF505; and the appropriate GD for Ontario, ZB3, is added to create KF505.ZB3. People familiar with KF Modified (including law library users) will know that Ontario family law will be found in KF505.ZB3. And, as an added bonus, they will also find grouped together in KF505 other resources on family law in England, Alberta, Nunavut, Queensland, etc., that they can also consult.

KF Modified has become especially valuable for smaller Canadian law libraries who collect legal resources from primarily common law jurisdictions and who may not have a dedicated cataloguing staff. It is not, therefore, surprising to see that KF Modified has become very popular in law firm, court house, government, and law society law libraries. In my 2001 survey, these types of libraries accounted for 84% of the libraries using KF Modified.[14] What is surprising is that the larger academic libraries, especially those supporting law schools, have decided not to use the classification scheme used in the very libraries in which many of their students may one day find themselves researching. Fortunately, because KF Modified was designed to work seamlessly with the LC classification scheme and Class K, the transition back to KF Modified will be easy and, I suspect, welcome.

KF Modified was intended to be used for common law materials, which take up the bulk of most collections in Canadian law libraries. Except for the table found at KF385.ZB5, KF Modified was never intended to handle civil law, and to consider this a failing of the classification scheme is simply unfair. However, some libraries have expressed interest in arranging all of their resources using KF Modified only. In response to this need the editorial committee has been developing an expansion of KF385.ZB5 for Quebec civil law that will soon be released as an optional enhancement to KF Modified.

As a cataloguer in Canadian law libraries for the past twelve years, I have always been impressed with the overall practicality and utility of KF Modified. It makes cataloguing much easier and provides a system that is logical and easy for library users to navigate. The jurisdictional

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12 For those using a book jobber to provide shelf-ready books, it may be interesting to know that Yankee Book Peddler (YBP) will provide KF Modified cataloguing.

13 See also Humayun Rashid's concordance prepared for a workshop on KF Modified at the CALL conference in Niagara-on-the-Lake in 2003: Humayun Rashid, *KD/KE/KF (Modified) Concordance Chart* , online: <http://www.law-lib.utoronto.ca/call2003/kfmodified1.pdf#page=6>.

14 F. Tim Knight, "The Future of KF Modified," (2002) 27 Can. L. L. Rev. 20 at 22, fig. 19.

approach, i.e. Class K, may be the dominant classification scheme in the United States, but a 2007 survey indicated that only 5% of law libraries surveyed in the UK are using Class K.[15] Most of the UK law libraries (41%) are still maintaining their own in-house scheme, with the next largest number of respondents (31%) using Moys, a system that also groups common law together.[16] Recent interest in KF Modified from a law library in England[17] suggests it is time to extend the reach of KF Modified to common law libraries outside of Canada. Class KE is an excellent classification scheme deserving of recognition, but it is perhaps better suited for law libraries in the United States where the jurisdictional approach has been established.

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15 Rachel Brett, "Classification Practice in Law Libraries: A Brief Survey" (2008) 8 Legal Info. Mgmt. 61 at 61.

16 *Ibid.* at 61.

17 In January 2009 J. McRee Elrod forwarded a question he had received about KF Modified to CALL-L from Helen Buhler, Classification Coordinator, at the Templeman Library, University of Kent. I had the opportunity to correspond with Ms. Buhler about the possibility of using KF Modified.